

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF FAIRFAX

COMMONWEALTH OF VIRGINIA,

v.

LEE BOYD MALVO,
Accused.

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Case No. 102888

FILED
JAN 23

PM 3:02

FAIRFAX
CIRCUIT COURT
FAIRFAX, VA

**MOTION TO SEAL DEFENSE TIME SHEETS FOR INVESTIGATORS,
MENTAL HEALTH EXPERTS AND COUNSEL**

COMES NOW the Defendant, Lee Boyd Malvo, by and through counsel, pursuant to the Fifth, Sixth and Fourteenth Amendments to the United States Constitution and Article I, Section 8 of the Virginia Constitution, and moves this court to seal Defense time sheets, and in support thereof states the following:

1. Lee Boyd Malvo is charged in Fairfax County with the premeditated murder of Linda Franklin pursuant to §18.2-31(8) as well as § 18.2-31(13) (killing in the commission of an act of terrorism), and unlawful use of a firearm while committing the murder of Linda Franklin pursuant to §18.2-53.1 of the Virginia Code as amended in (1950).
2. Since Mr. Malvo's arrest, his case has received constant and substantial attention by the public and media.
3. Mr. Malvo's court-appointed counsel and their agents are required to submit monthly time sheets to the court for payment, which detail the work performed that month and the specific amount of time spent on specific tasks.
4. It is understood by counsel that the detail provided to the court is a prerequisite for payment.

5. The Commonwealth is not obligated to provide an accounting or time sheets to the court.
6. The time sheets list, among other things, confidential work product information as to the tasks performed that month, information about future documents to be filed with the court and details as to where the agents of the defense have traveled and the amount of time spent on investigation in particular areas. The sheets would provide an experienced observer with valid indications as to how each defense attorney is spending his/her time and what facts and/or subject matters may be considered most crucial to the defense.
6. The time sheets are now currently filed in the court's file and are subject to examination by the prosecution and the public.
7. Mr. Malvo's defense is currently being placed in a compromising position as the individuals that are prosecuting him and the potential jurors who may judge him have access to the strategies and other confidential information pertaining to his defense.

WHEREFORE, Lee Boyd Malvo, by and through his counsel prays that the Court enter an order sealing all time sheets filed by all individuals approved to provide service by the court in the above styled case from access by any party except those authorized to do so for the purpose of effecting payment, until such time as no prejudice arises from disclosure of such documents.

Respectfully submitted,

LEE BOYD MALVO
By Counsel

By _____
Co-Counsel

and

By _____
Co-Counsel

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CERTIFICATE OF SERVICE

We/I hereby certify that a true copy of the foregoing Motion was hand delivered
to:

Robert F. Horan, Jr., Esquire
Commonwealth's Attorney
4110 Chain Bridge Road
Room 123
Fairfax, VA 22030

and the original was forwarded for filing to:

Hon. John T. Frey
Clerk
Fairfax County Circuit Court
Fairfax County Judicial Center
4110 Chain Bridge Road
Fairfax, VA 22030-4009

and a true copy was forwarded to the

Hon. Jane Marum Roush
Judge
Fairfax County Circuit Court
Fairfax County Judicial Center
4110 Chain Bridge Road
Fairfax, VA 22030-4009

this 23 day of June, 2003.

Co-Counsel

Co-Counsel